

Comptroller of the Currency, Treasury

§ 150.100

holding title to real property. This list is illustrative and not comprehensive. Other activities may also be “ancillary activities” for purposes of this definition.

Affiliate has the same meaning as in 12 U.S.C. 221a(b). For purposes of this part, substitute the term “Federal savings association” for the term “member bank” whenever it appears in 12 U.S.C. 221a(b).

Applicable law means the law of a state or other jurisdiction governing your fiduciary relationships, any Federal law governing those relationships, the terms of the instrument governing a fiduciary relationship, and any court order pertaining to the relationship.

Fiduciary activities include accepting a fiduciary appointment, executing fiduciary-related documents, providing investment advice for a fee regarding fiduciary assets, or making discre-

tionary decisions regarding investment or distribution of assets.

Fiduciary officers and employees means the officers and employees of a Federal savings association to whom the board of directors or its designee has assigned functions involving the exercise of the association’s fiduciary powers.

Subpart A—Obtaining Fiduciary Powers

§ 150.70 Must I obtain OCC approval or file a notice before I exercise fiduciary powers?

You should refer to the following chart to determine if you must obtain OCC approval or file a notice with the OCC before you exercise fiduciary powers. This chart does not apply to activities that are exempt under subpart E of this part.

LIF YOU WILL CONDUCT . . .

If you will conduct . . .	Then . . .
(a) Fiduciary activities for the first time and the OCC has not previously approved an application that you submitted under this part.	You must obtain prior approval from the OCC under §§ 150.80 through 150.120 before you conduct the activities
(b) Fiduciary activities that are materially different from the activities that the OCC has previously approved for you, including fiduciary activities that the OCC has previously approved for you that you have not exercised for at least five years.	You must obtain prior approval from the OCC under §§ 150.80 through 150.120 before you conduct the activities
(c) Fiduciary activities that are not materially different from the activities that the OCC has previously approved for you.	You must file a written notice described at § 150.125 if you commence the activities in a new state. You do not need to file a written notice if you commence the activities at a new location in a state where you already conduct these activities.
(d) Activities that are ancillary to your fiduciary business	You do not have to obtain prior OCC approval or file a notice with the OCC.

§ 150.80 How do I obtain OCC approval?

You must file an application under part 116, subparts A and E of this chapter.

§ 150.90 What information must I include in my application?

You must describe the fiduciary powers that you or your affiliate will exercise. You must also include information necessary to enable the OCC to make the determinations described in § 150.100.

§ 150.100 What factors may the OCC consider in its review of my application?

The OCC may consider the following factors when reviewing your application:

- Your financial condition.
- Your capital and whether that capital is sufficient under the circumstances.
- Your overall performance.
- The fiduciary powers you propose to exercise.
- Your proposed supervision of those powers.
- The availability of legal counsel.
- The needs of the community to be served.